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OFFICE OF PETITIONS

In re Application of
Denis Reibel et al.
Application No. 10/537,082
Filed: January 20, 2006
Attorney Docket No. 331.1095

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 28, 2008, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned as a result of petitioner's failure to file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). As an appeal brief (and appeal brief fee) was not filed within two (2) months of the Notice of Appeal filed May 22, 2007, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained, the appeal was dismissed and the proceedings as to the rejected claims were terminated. See 37 CFR 1.197(b). As no claim was allowed, the application became abandoned on July 22, 2007. See MPEP 1215.04.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an Appeal brief; (2) the petition fee of \$1,540; and (3) the required statement of unintentional delay have been received. Accordingly, the Appeal Brief is accepted as having been unintentionally delayed.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$2,230 extension of time fee submitted with the petition on January 28, 2008 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571) 272-6842.

The application file is being referred to Technology Center Art Unit 2831 for consideration of the Appeal Brief filed January 28, 2008.



for David Bucci
Petitions Examiner
Office of Petitions